the establishment of a few chief types, and these were at last merged in the feudal system as we know it. We see, in short, how true law is formed, by the persistence of that one of all usual customs which is best adapted to the existing society. Law like life is a survival of the fittest.

Professor Maitland seems fully to have established his important thesis as to the nature of the Domesday manor. This was not at all the manor we know, with its technical characteristics; it was merely the geldable unit, whether large or small. It might be the enormous seat of a magnate, with dependencies sprawling through a half-score hundreds, it might be the few acres of a poor peasant; the home of every man who paid his geld to the King's officers directly, not through another subject, was a manor-house; of interest to the King because he must send there to collect taxes.

All disputed questions with regard to early institutions are adequately discussed. The borough, the vill, sake and soke, folk-land and book-land are illuminated in turn. Professor Maitland is perhaps the first author who in the light of modern scholarship takes the old view of the vill. He believes in a settlement of independent freemen (not a community in a legal sense) each owning his land in severalty and cultivating a hide of 120 acres, be the acres larger or smaller. Whether we agree with this conclusion or not, we must rejoice that it is at last supported by a well equipped scholar, and—may we not add, with the egotism of our own science — in a thoroughly lawyerlike way.

Indeed the method of investigation is the very life of the work. It is the sound method of working gradually back from the known to the unknown. We read our Bede and our Tacitus, not in the electric glare of modern scholarship, which destroys the finer shading, but with the candle of Bracton and the rushlight of Domesday. "If, for example, we introduce the *persona ficta* too soon, we shall be doing worse than if we armed Hengest and Horsa with machine guns, or pictured the Venerable Bede correcting proofs for the press; we shall have built upon a crumbling foundation. The most efficient method of protecting ourselves against such error is that of reading our history backwards as well as forwards, of making sure of our middle ages before we talk of the 'archaic,' of accustoming our eyes to the twilight before we go out into the night." J. H. B.

SELECT CASES IN CHANCERY. 1364 to 1471. Edited for the Selden Society, by William Paley Baildon. London: Bernard Quaritch. 1896.

This latest publication of the Selden Society is a solid contribution to the history of equity jurisdiction. In his excellent introduction the editor has indexed the cases in this volume, and also the earliest cases in the first two volumes of the Calendars of the Proceedings in Chancery, published in 1827. The reader is thus enabled to fix pretty clearly the beginning of many doctrines in equity. For example, case 83 (1396–1403) is the earliest instance of a bill for specific performance, and case 142 (1456) is the first case in which it appears that the plaintiff obtained a decree upon such a bill. It is noticeable that there are only four such bills in the century covered by this volume. The earliest bills against feoffees to uses were either at the very end of the fourteenth or at the beginning of the fifteenth century. As there is no mention of a

decree in these early cases, we may still credit the statement in the prayer by the Commons in 1402, 3 Rot. Parl. 511, that there would be no remedy against feoffees to uses unless one were ordained by Parliament. The oldest bill in this new collection of cases was for the cancellation of a bond on the ground of duress, case 134 (1337).

Case 116 is interesting, as confirming the statement in 3 HARVARD LAW REVIEW, 33, that according to mediæval conceptions a bailment was a strictly personal obligation. The plaintiff, on going to Jerusalem, delivered a coffer containing title deeds to his mother to keep for him until his return. His mother died during his absence, and the coffer came to the hands of his step-father, who refused to give it up to the plaintiff. The latter sought relief in equity, "because he (the step-father) was not privy nor party to the delivery of the said coffer to his said wife, in which case no action is maintainable against him at common law."

The editor tells us that one bundle of dateless petitions remains for future investigation. We trust these may soon be printed. Then we may fairly expect from some competent hand a truly satisfactory History of Equity Jurisdiction. J. B. A.

HISTOIRE DU CONTRAT D'ASSURANCE AU MOYEN AGE. Par M. E. Bensa. Traduit de l'Italien par M. Jules Valéry. Paris: Albert Fontemoing. 1897. pp. xvi, 108.

In the most ancient documents concerning commercial contracts in the Middle Ages are to be found provisions by which one party undertook the risks of the sea, or cast them upon the other party. It was soon perceived that the differences in the amount to be paid in commercial contracts of identically the same character, according as the risk of loss was included or excluded, could be calculated by a regular scale. Then a third party stepped in, offering to assume the risk of loss on payment to him of this difference; and thus came into existence true contracts of insurance. In this learned monograph, written three years ago by M. Bensa, Professor in the University of Genoa, and now translated into French by M. Valéry, is described the origin of the contract of insurance in Italy during the first half of the fourteenth century, its development and the formulation of laws governing it in that country, and finally its adoption by the Spanish merchants at Barcelona in the fifteenth century and the appearance of the celebrated Ordinances of Barcelona, by which the practice of insurers was regulated throughout Europe. Some of the most interesting portions of this work give an account of the manner in which the difficulties caused by the canon laws against usury were avoided, and of certain curious early forms of life insurance. Though the translator has abridged the volume by the omission of many documents inserted in the original, it is evident that this work is the result of much research among the material to be found in the archives of the Italian cities which were the commercial centres of the world during the Middle Ages. It forms an important contribution to the means, not yet very abundant, available for the study of the early commercial law of Europe, of which our English commercial law may in some points be considered a comparatively late outgrowth. R. G.